

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. There are no legal sales or dispensaries of marijuana in Vermont. Registered users must be able to obtain it themselves, even though their suppliers (and all other users of the drug) are acting outside the law.

Understandably, the petitioner feels he cannot divulge the source of his marijuana.

3. The petitioner has found that he is allergic to every prescription narcotic he has tried to use for pain relief. Unfortunately, he has difficulty affording the price he must pay to obtain marijuana.

4. The Department has denied his request for reimbursement of his expenses in obtaining marijuana.

ORDER

The Department's decision is affirmed.

REASONS

The Medicaid regulations specifically preclude payments for items and services furnished by an individual or entity not enrolled as a Medicaid provider. W.A.M. § M151.1(I). The regulations define providers as those "currently approved to provide medical assistance to a beneficiary pursuant to the Vermont Medicaid Program". Id. § M155.1. Moreover, § M152 provides that Medicaid payments cannot be made directly to a recipient.

In this case, the petitioner does not dispute that marijuana cannot be legally sold or dispensed in the state of Vermont, and that there are no exceptions under the Medicaid

regulations for the use of marijuana. At the hearing the petitioner was advised that he could attempt to claim his purchase of marijuana as a medical deduction from his income for purposes of determining the amount of his Food Stamps, although neither the Department nor the hearing officer gave the petitioner any assurance that such a claim would be successful.

Although it may be considered harsh to require Medicaid recipients who have a legal dispensation to use marijuana out of medical necessity to bear the financial costs of obtaining that drug, it cannot be concluded that limiting Medicaid coverage to enrolled providers is either fundamentally unfair or contrary to public policy. Thus, the Board is bound to affirm the Department's decision in this case. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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